



MONTGOMERY COUNTY ETHICS COMMISSION

Steven Rosen
Chair

Kenita V. Barrow
Vice Chair

September 1, 2016

Waiver 16-08-019

Pursuant to § 19A-12(b)(1)(B) of the Public Ethics Law, a public employee must not be employed by a business that negotiates or contracts with the County agency with which the public employee is affiliated, unless the Ethics Commission grants a waiver.

Lissa Hicks is a Behavioral Health Associate Counselor in the Behavioral Health and Crisis Services Division at the Department of Health and Human Services (DHHS). She requests a waiver of the prohibition of § 19A-12(b)(1)(B) so that she can be employed as an overnight staff employee at the Rainbow Place Hypothermia Shelter (Rainbow), an entity funded by contracts between Rockville Presbyterian Church (the Church) and DHHS, with Ms. Hicks receiving her paycheck from the Church.

DHHS has contracts with the Church through its Special Needs Housing program. Ms. Hicks's division, Behavioral Health and Crisis Services, does not contract with the Church and Ms. Hicks is not involved in County matters affecting either the Church or Rainbow. The funds received by Rainbow from the County through the Church pay for various services relating to the operation of the shelter. The County is only one of several sources of funding for Rainbow's operations. According to information from the DHHS Chief Operating Officer, the County funds a portion of Rainbow's operation on a fixed per bed basis.

Pursuant to § 19A-8(b)(3) of the Public Ethics Law, the Ethics Commission may grant a waiver of the prohibition of § 19A-12(b) if the Ethics Commission concludes that the proposed employment is not likely to create an actual conflict of interest. Upon a review of the request and the Department's concurrence in and support for the waiver request, the Commission finds that there is no actual conflict of interest. Pursuant to the standard of § 19A-8(b)(3), the Commission grants the waiver of the prohibition of § 19A-12(b). The waiver is conditioned on Ms. Hicks not referring, in her County capacity, DHHS clients to the Church or to Rainbow and on Ms. Hicks not working, while at Rainbow, with any clients of her program at DHHS.

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In reaching this decision, the Commission has relied upon the facts as presented by Ms. Hicks.¹

For the Commission:



Steven Rosen, Chair

¹ The Commission contrasts this waiver with the decision in Advisory Opinion 16-01-001 denying a request for a waiver where a DHHS employee's outside employment would have been related to a contract between the outside employer and DHHS. In that opinion, the outside employment involved counseling persons who are operating under a contract with a County program the employee worked with in her official capacity; also, in the employee's official position, the employee interacted with employees of the proposed outside employer.